

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition to Determine Need)	DOCKET NO. 910816-EQ
for electrical power plant (Amelia)	ORDER NO. 25123
Island Cogeneration Facility) by)	ISSUED: 9/26/91
NASSAU POWER CORPORATION)	
)	

ORDER ESTABLISHING PREHEARING PROCEDURE

Pursuant to Rule 25-22.038(3), Florida Administrative Code, all parties and staff are hereby required to file a prehearing statement with the Division of Records and Reporting on or before October 17, 1991. Failure of a party to timely file a prehearing statement shall be a waiver of any issue not raised by other parties or by the Commission. In addition, such failure shall preclude the party from presenting testimony in support of its position. Each prehearing statement shall set forth the following information in the sequence listed below.

- (a) the names and addresses of all counsel/qualified practitioners appearing on behalf of the party
- (b) the name and address of all known witnesses that may be called by the party, and the subject matter of their testimony;
- (c) a description of all known exhibits that may be sponsored by the party, their contents, whether they may be identified on a composite basis, and the witness sponsoring each;
- (d) a statement of basic position in the proceeding;
- (e) the party's position on each issue raised in Staff's List of Issues and Positions, which will be filed with the Division of Records and Reporting on or before October 1, 1991, and which of the party's witnesses will address the issue. **In responding to the issues raised in the Staff's List of Issues and Positions, the parties shall utilize the issue numbers assigned in Staff's List;**
- (f) a statement of each question of fact the party considers to be at issue but not raised in Staff's List of Issues and Positions, the party's position on each such issue, and which of the party's witnesses will address the issue;
- (g) a statement of each question of law the party considers to be at issue but not raised in Staff's List of Issues and Positions, and the party's position on each such issue;

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(h) a statement of each policy question the party considers to be at issue but not raised in Staff's List of Issues and Positions, the party's position on each such issue, and which of the party's witnesses will address the issue;

(i) a statement of issues that have been stipulated to by the parties;

(j) a statement of all pending motions or other matters the party seeks action upon; and

(k) a statement as to any requirement set forth in this order that cannot be complied with, and the reasons therefor.

The original and twelve copies of each prehearing statement shall be filed with the Division of Records and Reporting on or before the close of business on the dates provided for the respective parties herein below. A copy of the prehearing statement shall also be mailed to all other parties no later than its filing with the Commission.

In addition to the filing with the Division of Records and Reporting, each party shall furnish if available, a copy of its Prehearing Statement with the Division of Legal Services, Room 226, Fletcher Building, 101 East Gaines Street, Tallahassee, Florida 32399-0863, on computer diskette formatted to the specifications of WordPerfect, version 5.1. The Legal Division's WordPerfect 5.1 program is set up with the following parameters:

- 1) Courier 10 pitch type-face
- 2) Tabs are set at 1.5", 2.5", 4.25" and 5.5"
- 3) 3 and 1/2" high density diskette

Prefiled Testimony and Exhibits

In accordance with Rule 25-22.048, Florida Administrative Code, each party shall be required to prefile all written testimony that it intends to sponsor. Commission Staff may file prefiled testimony in this case. Written testimony shall be typed on standard 8 1/2 x 11 inch transcript quality paper, double-spaced, with 25 numbered lines, on consecutively numbered pages, each with a sufficient left margin to allow for binding.

Each witness giving prefiled testimony shall be assigned a number at the prehearing conference. A copy of any exhibit sponsored by a witness shall be attached to the written testimony of that witness. The pages of each exhibit shall be consecutively numbered. All known exhibits shall be marked for identification at the prehearing conference.

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The original and twelve copies of all prefiled testimony and exhibits shall be filed with the Division of Records and Reporting, on or before the close of business on the dates provided for the respective parties herein below. A copy of the prefiled testimony and exhibits shall also be mailed to all other parties simultaneously with their filing with the Commission.

Prehearing Conference

A prehearing conference will be held on October 23, 1991 at 9:30 a.m. in Room 122, Fletcher Building, 101 East Gaines Street, Tallahassee, Fla. The conditions of Rule 25-22.038 (5)(b), Florida Administrative Code, shall be observed. Any party who fails to attend the prehearing conference, unless excused by the prehearing officer, will have waived all issues and positions raised in that party's prehearing statement.

Prehearing Procedure: Waiver of Issues

Any issue not raised by a party prior to the issuance of the prehearing order shall be waived by that party, except for good cause shown. A party seeking to raise a new issue after the issuance of the prehearing order shall demonstrate that: it was unable to identify the issue because of the complexity of the matter; discovery or other prehearing procedures were not adequate to fully develop the issue; due diligence was exercised to obtain facts touching on the issue; information obtained subsequent to the issuance of the prehearing order was not previously available to enable the party to identify the issue; and introduction of the issue could not be to the prejudice or surprise of any party. Specific reference shall be made to the information received, and how it enabled the party to identify the issue.

Unless a matter is not at issue for that party, each party shall diligently endeavor in good faith to take a position on each issue prior to issuance of the prehearing order. When a party is unable to take a position on an issue, it shall bring that fact to the attention of the prehearing officer.

Provisions Governing Discovery

The hearing in this docket is scheduled to begin on November 6, 1991. Unless authorized by the Prehearing Officer for good cause shown, all discovery shall be completed by October 31, 1991. In addition, to facilitate identification, all interrogatories, requests for admissions, and requests for production of documents shall be numbered consecutively. Each set of discovery requests shall be numbered sequentially from any previous set(s). Unless authorized by the Prehearing Officer, the following shall apply: interrogatories, including all subparts, shall be limited to 75,

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and requests for production of documents, including all subparts, shall be limited to 50.

Controlling Dates

The following dates have been established to govern the key activities of this case.

- 1) Parties shall file Preliminary Lists of Issues and Positions on or before October 1, 1991.
- 2) Direct testimony and exhibits shall be filed on or before October 14, 1991 with the Division of Records and Reporting.
- 3) Staff shall file direct testimony and exhibits (if any) on or before October 21, 1991.
- 4) Rebuttal testimony, if any, shall be filed on or before October 21, 1991.
- 5) All parties shall file a Prehearing Statement on or before October 17, 1991.
- 6) The prehearing conference shall be held in Tallahassee on October 23, 1991, at 9:30 a.m. in Room 122 of the Fletcher Building, 101 East Gaines Street.
- 7) All Discovery shall be completed on or before October 31, 1991.
- 8) The final hearing shall be held on November 6, 1991, beginning at 9:30 a.m. in Room 106, Fletcher Building, 101 East Gaines Street, Tallahassee, Fla. 32399. November 7, 1991 has also been reserved for the hearing.
- 9) Briefs shall be filed on or before December 19, 1991.

By ORDER of Commissioner Susan F. Clark, as Prehearing Officer, this 26th day of September, 1991.


Susan F. Clark, Commissioner
and Prehearing Officer

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